

E-Filed on 02/05/08

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Special Litigation Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
  
Debtor.

In re:  
USA CAPITAL REALTY ADVISORS, LLC,  
  
Debtor.

In re:  
USA CAPITAL DIVERSIFIED TRUST DEED FUND,  
LLC,  
  
Debtor.

In re:  
USA CAPITAL FIRST TRUST DEED FUND, LLC,  
  
Debtor.

In re:  
USA SECURITIES, LLC,  
  
Debtor.

Affects:  
☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case Nos.:  
BK-S-06-10725-LBR  
BK-S-06-10726-LBR  
BK-S-06-10727-LBR  
BK-S-06-10728-LBR  
BK-S-06-10729-LBR

JOINTLY ADMINISTERED  
Chapter 11 Cases

Judge Linda B. Riegler

**USACM LIQUIDATING  
TRUST'S EX PARTE MOTION  
FOR ORDER SHORTENING  
TIME TO HEAR USACM  
LIQUIDATING TRUST'S  
MOTION TO COMPEL  
PRODUCTION OF  
DOCUMENTS BY WELLS  
FARGO**

Hearing Date: OST REQUESTED  
for February 21, 2008

Hearing Time: OST REQUESTED  
for 9:30 a.m.

The USACM Liquidating Trust (the "Trust") hereby files this Ex Parte Motion for Order Shortening Time to Hear USACM Liquidating Trust's Motion to Compel Production of Documents By Wells Fargo and in support thereof, respectfully states as following:

1           1.       On February 5, 2008, the Trust has filed its Motion to Compel Production of  
2 Documents by Wells Fargo (the "Motion") (Docket No. 5782). The Motion is based on Wells  
3 Fargo's failure to produce all documents responsive to the Rule 2004 Subpoena for examination  
4 and production of documents (the "Subpoena") that the Trust served on Wells Fargo's on March  
5 13, 2007.

6  
7           2.       Over the course of many months following the service of the Subpoena, Wells  
8 Fargo asked for numerous extensions and otherwise delayed the production while promising to  
9 cooperate and produce the documents. After producing only a fraction of the documents  
10 requested in the Subpoena, the Bank stopped the production at all.

11           3.       The Trust now faces the deadline of April 14, 2008 – the date the statute of  
12 limitations for avoidance actions under 11 U.S.C. § 546 expires – without many key documents  
13 that Wells Fargo promised but has not produced.

14  
15           4.       As set forth more fully in the Motion, the documents requested in the Subpoena,  
16 include emails and correspondence that Wells Fargo's employees maintained with USACM and  
17 its related entities, as well as documents related to wires and ACH transfers. These documents,  
18 crucial to the Trust's analysis of its potential avoidance claims, and might take several weeks to  
19 collect.

20  
21           5.       On February 21, 2008, there is an omnibus hearing setting in front of this Court at  
22 9:30 a.m.

23           6.       In light of the facts described above, The Trust seeks an order from the Court  
24 shortening time to hear the Motion on February 21, 2008 at 9:30 a.m.

25           2.       Wells Fargo will not be prejudiced by the relief requested herein because by its  
26 response to the Trust's Motion is due on February 20, 2008 – a day before the hearing. Thus,

1 holding the hearing on February 21, 2007 will not shorten in any way the time that Wells Fargo  
2 has to respond to this Motion and brief the Court on relevant issues.

3 3. The Court can shorten notice pursuant to Federal Rule of Bankruptcy Procedure  
4 9006(c)(1) and Bankruptcy Local Rule 9006(a).  
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6  
7 Dated: February 6, 2008

8 **DIAMOND MCCARTHY LLP**

9  
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